

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of Insurance and Financial Services

In the matter of:

██████████

Petitioner

v

File No. 152760-001

US Health and Life Insurance Company
Respondent

Issued and entered
this 13th day of April 2016
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On March 18, 2016, ██████████ (Petitioner) filed a request with the Director of Insurance and Financial Services for an external review under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

The Petitioner receives benefits through a group plan that is underwritten by US Health and Life Insurance Company (USHL). The Director notified USHL of the external review request and asked for the information used to make its final adverse determination. USHL provided its response on March 23, 2016. After a preliminary review of the material received, the Director accepted the request on March 25, 2016.

This appeal involves a contractual issue. The Director reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

II. FACTUAL BACKGROUND

On September 6, 2015, the Petitioner was transferred by ground ambulance from ██████████ ██████████ to Spectrum Health in Grand Rapids. The ambulance services were provided by Otsego County Ambulance, a provider that is not a part of USHL's provider network. The charge for the ambulance transport was \$3,509.40. USHL paid \$2,723.01. Otsego County Ambulance billed the Petitioner for the difference between its charge and USHL's payment.

The Petitioner appealed USHL's payment amount through its internal grievance process. USHL issued a final adverse determination dated February 2, 2016, affirming its position. The Petitioner now seeks a review of that adverse determination from the Director.

III. ISSUE

Did USHL pay too little for the Petitioner's ambulance transportation?

IV. ANALYSIS

USHL's Argument

In its final adverse determination, USHL wrote:

The group insurance provides for deductibles, higher copays, and coinsurance for out-of-network benefits. The group insurance coverage provides certain benefits when the employee and dependents receive services from network providers and certain other benefits when they receive services from providers that are not in the network. The benefit amount payable is based on the network status of the providers. Benefits are not based on the effort of the employees in attempting to obtain services from network providers or on the reasons they do not, such as an emergency. The insured is not required to use the services of any one particular provider.

In network and out-of-network benefits are different because of the discounts US Health and Life receives when an insured person receives treatment from a network provider. These discounts are not available from out of network providers. Policy benefits are based on whether a provider is in the network and provides a discount or is out-of-network. Benefits are not based on the availability of the providers.

According to the schedule of benefits, ambulance charges from an out of network provider are payable at 100% of usual and customary. A schedule of benefits is attached for your reference. The claim was paid appropriately according to the schedule of benefits. Please note – since this claim was adjudicated the Plan has received updated usual and customary guidelines and an additional \$124.11 is payable and will be issued shortly....

Petitioner's Argument

In her request for an external review, the Petitioner wrote:

I appealed to the US Health and Life and received notice that they have denied my appeal stating they paid 100% of usual and customary for this service....I have requested a definition of 'usual and customary' from US Health and Life, and it was explained as 'similar to what other providers in my area would charge', but they would not provide further details. The transport was required because I had had been running a fever of 101 degrees or above for over a week, with headaches, extremely low blood pressure, and was 24 weeks pregnant. My

OBGYN...wanted to make sure I was monitored for my trip to Spectrum Health where I spent 4 days as an inpatient....

The summary of my medical coverage (included) states under, **Charges for Physician and Facility Services - Urgent Care and Emergency**, that an ambulance is covered 100% regardless of in or out of network. The only note is "No copayment, deductible, or coinsurance applies to Out-of-Network emergency services if the In-Network Cost Sharing Maximum has been reached. Out-of-Network providers will be reimbursed at the same level of benefits as In-Network providers, and they may bill you the balance." The problem is that there is only one In-Network provider in this area, which is approximately 50 miles away, to provide emergency transport. I called that provider, North Flight Ambulance, and they would not release pricing information other than to say that what I was charged by Otsego County Ambulance is comparable to what they charge. Therefore it seems that Otsego County Ambulance did charge what was 'usual and customary'. The billing department at North Flight also stated that if I had tried to use their 'In-Network' services in order to have this fully covered by US Health and Life that they would have likely denied my request for transport as they don't generally transport patients from my area.

I followed up with Otsego County Ambulance on 2/23/16 and they stated that the insurance company should have a formula of how they come up with the 'usual and customary' amount. I called US Health and Life on 2/23/16 at 11am and spoke with Renee L, who under her supervisor's advice told me that in order to get that information the ambulance company would have to submit a written request. I find it odd that they would not share this information with me directly, but the ambulance company agreed to submit the request on 2/23/16. Otsego County Ambulance also noted that their base rate is \$950 for transport and \$13.40/mile which is determined by a board in Otsego County.

As of today, 3/14/16, US Health and Life has not fulfilled the request for information of Otsego County Ambulance for the formula for 'usual and customary'. Due to time limits on this process I am submitting my appeal without this information as the insurance provider is not giving the information in a reasonable time period.

Director's Review

The USHL policy describes how payments for eligible expenses are determined. Eligible expenses are "those Covered Expenses that are deemed by the Company to be the Usual and Customary Charges." A usual and customary charge is defined in the policy (page 14) as:

a charge that does not exceed the lesser of the following amounts:

- a. The general level of charges accepted by others of similar standing in the area where the charge is incurred, when furnishing like or comparable treatment, services or supplies to an individual of the same sex and comparable age and income for a similar Illness or Injury. The term "area" means a county or such greater area as is necessary to establish a representative cross section of persons or other entities regularly furnishing the type of treatment, services or supplies for which the charge was made. In no event shall fees and charges

equivalent to those made for Workers' Compensation cases in the area concerned be considered not Usual or not Customary, it being the intent of this limitation that the insurance provided by the Policy shall not pay for expenses for services or supplies which a reasonably prudent person would consider to be priced unreasonably high or to be of a luxury nature.

- b. The charge determined by a national vendor of Usual and Customary calculations to be at the 60th percentile of charges by others of similar standing in the area where the charge is incurred, when furnishing like or comparable treatment, services or supplies to an individual of the same sex and of comparable age and income for a similar Illness or Injury....
- c. The discounted charge negotiated with a provider by or on behalf of US Health and Life Insurance Company. This includes the Approved PPO Amount and includes the discounted charges based on discounts from Preferred Provider Organizations with which the provider may be associated, when the provider does not participate with the Preferred Provider Organization contracted by the US Health and Life Insurance Company.

Under the Petitioner's USHL policy, ambulance services are covered at 100 percent of the usual and customary charge which USHL calculated as \$2,723.01. In conducting reviews under the Patient's Right to Independent Review Act, the Director does not determine how an insurer must calculate the amount it pays for particular claims. While the Petitioner believes USHL should pay a larger share of the ambulance service's charge, the Director has no basis upon which to determine what the appropriate payment should be. In addition, the Director has no authority to require an insurer to pay a particular amount for a covered medical service.

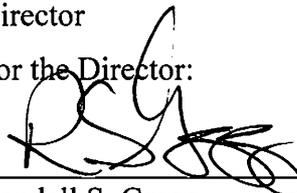
V. ORDER

The Director upholds USHL's final adverse determination of March 11, 2016.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this order may seek judicial review no later than sixty days from the date of this order in the circuit court for the Michigan county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of General Counsel, Post Office Box 30220, Lansing, MI 48909-7720.

Patrick M. McPharlin
Director

For the Director:



Randall S. Gregg
Special Deputy Director